GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – East Godavari District - Revision Petition filed by Smt Chikkala Rupavathi @ Satyavathi W/o.Kamaraju R/o. Jaddangi (V) Rajavommangi Mandal, East Godavari District with regard to Acs.2.64 cts of land in Sy.No.214/3 situated at Jaddangi (V) Rajavommangi (M), East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, East Godavari District dt.06.01.2007 in CMA No.49/05 - Rejected – Orders – Issued.

SOCIAL WELFARE (TW.LTR-2) DEPARTMENT

G.O.MS.No. 97 Dated:07.12.2015

Read the following:-

1. Revision Petition filed by Smt Chikkala Rupavathi @ Satyavathi W/o.Kamaraju R/o. Jaddangi (V) Rajavommangi Mandal, East Godavari District dated:12.01.2007.
2. Govt.Memo.No.413/LTR-2/2007, dt. 13.02.2007.
3. From the Additional Agent to Government, Rampachodavaram, East Godavari District CMA No.49 of 2005, dt.09.10.2007.
4. Govt.Lr.No.413/LTR-2/2007, dt.26.05.2015.

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ORDER:-

In the reference first read above, Smt Chikkala Rupavathi @ Satyavathi W/o.Kamaraju R/o. Jaddangi (V) Rajavommangi Mandal, East Godavari District has filed a Revision Petition before the Government against the orders of the Additional Agent to Government dt.06.01.2007 in CMA No.49/05 with regard to with regard to Acs.2.64 cts of land in Sy.No.214/3 situated at Jaddangi (V) Rajavommangi (M), East Godavari District, wherein the Additional Agent to Government, Rampachodavaram has set aside the orders passed by the Special Deputy Collector (TW) Rampachodavaram in LTRP No.150/2002, dated 27.12.2002.

2. The Government, in the reference 2nd read above, have admitted the said Revision Petition and requested the Additional Agent to Government and the Project Officer, ITDA, Rampachodavaram, East Godavari District to furnish the parawise remarks and connected records on the Revision Petition.

3. In the reference 3rd read above, the Project Officer, ITDA, Rampachodavaram, East Godavari District has furnished parawise remarks along with the connected records.

4. The facts of the case in brief are:

The Special Deputy Collector cum Agency Divisional Officer, Rampachodavaram by his orders in LTRP No.150/2002, dated 27.12.2002 has held that the transfer of land measuring an extent of Ac.2.64 cts of land in Sy.No.214/3 situated in Jaddangi village, Rajavommagi Mandal, East Godavari District through the agreement dt.4.2.1969 in favour of Chikkala Veeranna is found genuine, the possession of land by him is held valid under the provisions of Agency Land Transfer Regulations. As the present Respondent Chikkala Rupavathi is none other than his daughter-in-law, it is concluded that the land was not transferred to any other person and is within the family and her possession on PS land is not violative under provisions of Regulation 1/1959 as amended by 1/70.

5. Against the above order, the Petitioner in LTRP has filed Appeal before the Additional Agent to Government vide CMA No.49/2005. The Additional Agent to Government has set aside the orders of Special Deputy Collector, Rampachodavaram and ordered decree and ejectment against the said Smt Chikkala Rupavathi @ Satyavathi and directed to restore the land to the 2nd Appellant, Smt Tatikonda Bhulakshmi, who is tribal woman and is entitled to recover crop loss from the Respondent of Rs.10,000/- for the illegal possession and enjoyment of the petition scheduled land. Aggrieved by the same, the present Revision Petition.

(P.T.O)

6. The point for consideration is whether the order of Agent to Government who set a side the orders passed by the learned Special Deputy Collector (TW) is sustainable or not.

7. Sec 3 (1)(a) (b) of APSALT regulation which deals with the subject matter extracted hereunder:

"Section3: transfer of immovable property by a member of a Schedule Tribe:-

1(a) Notwithstanding anything by enactment, rule or law in force in the Agency tracts any transfer of immovable property situated in the Agency tracts by a person. Whether or not such a person is a member of a Schedule Tribe, shall be absolutely null and void, unless such transfer is made in favour of a person who is a member of Schedule Tribe or a Society registered or deemed to be registered under the Andhra Pradesh Cooperative Societies Act, 1964 (Act 7 of 1964) which is composed by Society Members of the Schedule Tribe.

1(b) Until the contrary is proved any immovable property situated in the Agency tracts and in the possession of a person who is not a member of Schedule Tribe, shall be presumed to have been acquired by person or his predecessor in possession through a transfer made to him by a member of a Schedule Tribe".

8. The above Revision Petition having been stood over for consideration till 13.06.2015 before the Government and the matter having been heard in presence of both parties on 13.06.2015. The Government passes the following orders:-

9. The order of the Additional Agent to Government which is impugned herein discloses that the Revision Petitioner produce the copy of a registered sale deed dated 30.4.1970 vide registered document 450/1970, to prove his title basically heavy burden lies on a non-tribe who claims right and title in an agency area, as per Sec.3(1) and (b) of LTR 1/1959 as ambled by resulting 1/1970. The said sale deed is after the commencement of Regulation 1 of 1970 was hit by Sec.3(1)(a) of Regulation 1 of 1970, the permission in writing of Agent to Government for such alienation is condition precedent for valid alienation as per APSALT regulation 1 of 1959. On meticuls reading of the Xerox copy sale deed found in the record, and the oral transfer of the petition schedule land by the father of the Revision Petitioner is not valid one. The Revision Petitioner has submitted original land revenue receipts for the fasalist, adangal copy, land settlement record, etc., all are null and void. The sale deed without sanction of Agent to Government is hit under APSALT regulation 1 of 1959 and hence is null and void. However, long the possession may be the non tribal is liable to eviction from the immovable property in agency area. Unless he has valid right and title to it either by way of registered sale deed with prior permission if it is prior to 1970 or by way of a grant under settlement laws. Otherwise his possession becomes illegal in view over riding clause and the prohibition of alienations mentioned in Section 3 of the APSALT regulation 1 of 1959. But that the transfer of plaint schedule land which was held between two non-tribes after the regulation 1 of 1970.

10. The Hon'ble Supreme Court in C.A.No.4602 of 1997 and batch in Samath Vs. Government of AP has held that the transfer of land by juristic person or allotment of land by state to a non tribe is prohibited.

11. The full Bench of Hon'ble High Court of A.P. has held that the transfer of land by one non-tribe to another non-tribe is null and void under Section 1 and 3 of APSALT Regulation 1 of 1970 (as reported in 1993 (1) ALT page 409 (FB).

12. The petitioner is also not entitled to get settlement patta under the Ryotwari Settlement Regulation 1 of 1970 as he failed to satisfy all the 3 conditions as required under section 7 of the said Regulation.

13. Therefore the petitioner is liable to be ejected as he did not get permission from Agent to Government as required under Sec.3 of Regulation 1 of 1959. Even such a embargo against sale in favour of non-tribe is there even under the Agency tracts interest and Land Transfer Act 1917, unless it is with the previous consent in writing of Additional Agent to Government.

(P.T.O)

14. The Revision Petitioner did not produce any document of title and the APSALT Regulation basically is meant for the protection of interest and welfare of only Schedule Tribes but not non-tribes as per the judgment of the Hon'ble High Court of A.P. and the Hon'ble Supreme Court.

15. A non-tribe who does not have a valid title under a document or patta or a grant under any act is not entitled to continue in possession and hence if he found to be in possession of a schedule land in Agency Area is liable to ejected and the opportunity given to him is sufficient as per the provisions of the said Regulation, further there is a presumption under Section 3 against such non-tribe and hence the concurrent findings of facts by Additional Agent to Government are correct and the same are not liable to be interferedwith.

16. The contention of the learned Advocate that there is no prohibited transfer in the instant case and that the land in question was recorded as assessed waste dry of Government is not acceptable as a non tribe in agency area is not entitled to occupy or continue to be in possession of the same. If the non-tribe in agency area is evicted an eligible tribe can be immediately assigned the said property which obviously is the object and intendment of the above Regulation. More so as held by the Full bench of Hon'ble High Court of A.P. and hence there is no error in the orders impugned in this Revision Petition.

17. There is no infirmity found in the order of Additional Agent to Government, Rampachodavaram.

18. In the result, the Revision Petition is dismissed.

19. The Additional Agent to Government, Rampachodavaram, East Godavari District is requested to take necessary action in the matter accordingly.

20. The original record bearing No.49/2005 received from the Additional Agent to Government, Rampachodavaram, East Godavari District, through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYA SAGAR
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:
The Collector & Agent to Government, Kakinada, East Godavari District.
The Additional Agent to Government & Project Officer, ITDA
Rampachodavaram, East Godavari District.(w.e)
The Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District.
Copy to:
Sri Kola Satyaprasad, Advocate, ITDA, Legal Aid Cell Members Rampachodavaram – 530 288, East Godavari District .
Smt Chikkala Rupavathi @ Satyavathi, W/o.Kumaraju, R/o.Jaddangi (V), Rajavommangi (M), East Godavari District.
The P.S to Hon'ble Minister (SWE & TWE) for information
The P.S to Principal Secretary to Government (TW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER